

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 9754 of 1997

Between:

1. M/s Malathi Constructions, 26/912, 5th Cross Road, New Military
Colony, Nellore, rep. by its Managing Partner Sri D.Sundaraiah

2. V.Bala Bhaskara Rao, S/o Malakondaiah, Class-I Contractor,
R/o 26/912, 5th Cross Road, New Military Colony, Nellore.

3. N.Kameshwara Rao, S/o Mallaiah, Class-I Contractor,
R/o 25/975, Netaji Nagar, A.K.Nagar, Nellore.

..... PETITIONERS

AND

1. Government of Andhra Pradesh, rep. by its Principal
Secretary, Revenue (CT) Department, Secretariat, Hyderabad.

2. Commercial Tax Officer, Punjagutta Circle, Hyderabad.

3. Commercial Tax Officer, Sri Kalahasthi, Chittoor District.

4. Chief Engineer, Telugu Ganga Project, Sri Kalahasthi Chittoor District.

5. Executive Engineer, Telugu Ganga Project Division, Sri Kalahasthi, Chittoor District.

6. Chief Engineer, Telugu Ganga Project, Venkatagiri, Nellore District.

7. Executive Engineer, Telugu Ganga Project Division, Venkatagiri, Nellore District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue appropriate Writ, Order or Direction, preferably a Writ in the nature of Mandamus, declaring the action of the respondents in deducting the tax at source with regard to excavation work involved in agreements entered into by the petitioners with the Chief Engineer, Telugu Ganga Project, Sri Kalahasthi, vide agreement No.38/SE-94-95, dated 14-07-1994 for construction of U.T. at KM 104.295 of K.P.Canal, agreement No.80-SE/94-95, dated 25-10-1994 for construction of S.P. at KM 124.405 of K.P.Canal T.G.P.SKHT, agreement with Chief Engineer, Venkatagiri vide agreement NO.S4-SE/94-95, dated 08-11-1994 for construction of UT at KM41-885 of K.P.Canal at T.G.P./Venkatagiri and further agreement No.14-SE/95-96, dated 08-06-1995 E.W.E of SK-FF Canal from KM 17.400 to 17.800 T.G.P earth work at Venkatagiri and 2nd petitioner's agreement with the Chief Engineer, Telugu Ganga Project, Sri Kalahasthi vide agreement No.110-SE/94-95, dated 03-10-1994 for EWE of K.P.Canal from KM 110-00 to 111-00-TGP/Division II and G.K.MT, Agreement with Chief Engineer, Venkatagiri vide agreement No.27-SE/94-95 dated 29-06-1994 for construction of UT at KM 41-210+0-465/41-20 Venkatagiri Division and 3rd petitioner's agreement with the Chief Engineer, Telugu Ganga Project, Sri Kalahasthi Vide agreement No.46 SE/94-95 dated 13-09-1994 for construction of U.T. at KM 103-025 of K.P.Canal Srikalahasthi Division-II, as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently direct the respondents not to deduct the tax at source in respect of the excavation of earth works under the contracts.

Counsel for the Petitioners:MR.P.VENUGOPAL

Counsel for the Respondents 1 and 4 to 7 : GP FOR REVENUE

Counsel for the Respondents 2 and 3: Spl.S.C. for C.T.

The Court made the following

ORDER (Per the Hon'ble Sri Justice Bilal Nazki):

The writ petition was filed in the year 1997 stating therein that the respondents had no authority to deduct tax at source.

This Court passed the interim order in the following terms:

“While for earthwork nothing can be deducted, deduction can be made for supply of material components. Notice.”

In any case, the work, which was in progress in 1997, must have been completed by

now, and the order must have also been complied with. Therefore, there is no need to pass any further orders in the writ petition. The interim order dated 13-05-1997 is confirmed. However, the taxation authorities shall be at liberty to recover any tax from the petitioners, if due, in accordance with the Rules.

The writ petition is accordingly disposed of. No order as to costs.

(BILAL NAZKI, J)

28th October, 2004.

(S.ANANDA REDDY, J)

vrn

To

1. The Principal Secretary, Government of Andhra Pradesh, Revenue (CT) Department, Secretariat, Hyderabad.
2. Commercial Tax Officer, Punjagutta Circle, Hyderabad.
3. Commercial Tax Officer, Sri Kalahasthi, Chittoor District.
4. Chief Engineer, Telugu Ganga Project, Sri Kalahasthi Chittoor District.
5. Executive Engineer, Telugu Ganga Project Division, Sri Kalahasthi, Chittoor

District.

6. Chief Engineer, Telugu Ganga Project, Venkatagiri, Nellore District.

7. Executive Engineer, Telugu Ganga Project Division, Venkatagiri, Nellore District

8. Two C.Cs to the Government Pleader for Revenue,
High Court of A.P, Hyderabad (OUT)

9. Two C.D copies

10. Two C.Cs to the Spl.S.C for Commercial Taxes, High Court
Buildings, Hyderabad (OUT)